

**Illinois Department of Revenue
Regulations**

Title 86 Part 445 Section 445.10 Definitions

TITLE 86: REVENUE

**PART 445
TOBACCO PRODUCT MANUFACTURERS' ESCROW ACT**

Section 445.10 Definitions

“Affiliate” means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms “owns,” “is owned,” and “ownership” mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term “person” means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

“Distributor” means any and each of the following:

Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from outside this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by the Cigarette Tax Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.

Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State.

Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of the Cigarette Tax Act.

“Master Settlement Agreement” means the settlement agreement (and related documents) entered into on November 23, 1998 by the State of Illinois and leading United States tobacco product manufacturers.

“Participating manufacturer” means a tobacco product manufacturer who participates in the Master Settlement Agreement as provided in Section II(jj) of the Master Settlement Agreement.

“Qualified escrow fund” means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement

requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subdivision (a)(2)(B) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

"Tobacco product manufacturer" means any entity that, after June 30, 1999, directly (and not exclusively through any affiliate):

manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

becomes a successor of an entity described in this definition.

"Tobacco Product Manufacturer" does not mean an affiliate of a tobacco product manufacturer unless the affiliate itself falls within this definition.

"Unit sold" means an individual cigarette sold in the State of Illinois by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs bearing the excise tax stamp of the State.